

FINAL BILL REPORT

ESHB 1002

PARTIAL VETO C 288 L 09

Synopsis as Enacted

Brief Description: Allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Appleton and Hasegawa).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background:

When a felony offender has completed all the requirements of his or her sentence, the Secretary of the Department of Corrections or the Secretary's designee notifies the sentencing court. The sentencing court discharges the offender and provides the offender with a certificate of discharge. A certificate of discharge has the effect of:

- restoring all civil rights lost by operation of law, except for the right to bear arms, as the result of conviction; and
- terminating the sentencing court's jurisdiction to enforce the requirements of the sentence.

Among the civil rights restored are the right to vote, serve on a jury, and hold public office.

Engrossed Second Substitute Senate Bill 6400 (E2SSB 6400).

In March 2000, domestic violence legislation, E2SSB 6400, was enacted which added a statutory provision affecting certificates of discharge. This provision specifies that the issuance of a certificate of discharge does not terminate the offender's obligation to comply with a domestic violence no-contact order contained in the offender's judgment and sentence.

State v. Miniken.

In May 2000, two months after the passage of E2SSB 6400 and a month before its provisions became effective, the Washington Court of Appeals held, in *State v. Miniken*, that a no-

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contact order issued or extended at sentencing is a requirement of the offender's sentence. In *Miniken*, the defendant was convicted of a non-domestic violence offense and completed his prison sentence. A no-contact order was issued pursuant to his conviction and was the only condition remaining in effect when he requested the sentencing court to issue a certificate of discharge. The Court of Appeals upheld the sentencing court's denial of Miniken's request for a certificate of discharge, finding that a no-contact order is a requirement of sentence and the sentencing court retains jurisdiction until the offender's completion of his or her sentence requirements. The court's decision in *Miniken* establishes that the existence of a valid non-domestic violence no-contact order may prevent the issuance of a certificate of discharge.

The statutory provision enacted in E2SSB 6400 affecting certificates of discharge in cases of domestic violence no-contact orders has yet to be construed by the courts.

Summary:

For the purposes of issuing a certificate of discharge, a no-contact order is not a requirement of the offender's sentence. An offender who has completed all the requirements of his or her sentence is eligible for a certificate of discharge, despite the existence of a no-contact order.

In the case of an eligible offender who has a no-contact order as part of the judgment and sentence, the offender may petition the court to issue a certificate of discharge and a separate no-contact order by filing a petition in the sentencing court and paying the appropriate filing fee associated with the petition for the separate no-contact order. The filing fee does not apply to an offender seeking a certificate of discharge when the offender has a no-contact order separate from the judgment and sentence.

The court is required to issue a certificate of discharge and a separate no-contact order if the court determines that the offender has completed all the requirements of his or her sentence. The court is required to reissue the no-contact order separately under a new civil cause number for the remaining term and conditions as the no-contact order contained in the judgment and sentence. The separate no-contact order is not a modification of the offender's sentence.

The court must send a copy of the new no-contact order and an explanation of the reason for the change to the individuals protected by the order. If no address is available, the court must forward a copy of the new order to the prosecutor. The prosecutor must send a copy of the new no-contact order and an explanation of the reason for the change to the last known address of the protected individuals.

When a new no-contact order is issued, the court must forward a copy of the order to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency must enter the order into any computer-based criminal intelligence information system available and used by law enforcement agencies to list outstanding warrants. The new no-contact order and the case number of the discharged judgment and sentence must be linked in the computer system for purposes of enforcing the order.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 26, 2009

Partial Veto Summary: The emergency clause is removed.